

Wyoming Grazing Permit/Lease Renewal
Technical Program Review (TPR)

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DEPARTMENT OF INTERIOR
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Wyoming Grazing Permit Renewal Process Review

Executive Summary

During the weeks of January 25-28 and February 22-25, 2000, a Grazing Permit Renewal Technical Program Review (TPR) was conducted in Wyoming as part of a Bureauwide effort to: (1) ensure compliance with the National Environmental Protection Act (NEPA); (2) ensure the BLM is dealing effectively with the grazing permit/leases ("permit") renewal workload; and (3) determine the degree to which 43 CFR Subpart 4180 Fundamentals of Rangeland Health and Standards for Grazing Administration is being implemented.

The TEAM visited eight field offices (Rawlins, Rock Springs, Casper, Worland, Kemmerer, Pinedale, Lander, and Buffalo) to conduct inventories. Interviews with personnel of the remaining two offices, Newcastle and Cody, were conducted by phone.

The TEAM used a predetermined list of key topics and interview questions as the primary assessment tool. Similar questions were asked at all interviews. Interviews were conducted in a group setting allowing the TEAM full participation and the interviewees to participate in a discussion when addressing the questions. Each Field Office supplied three examples of documents for permit renewal, including a NEPA environmental assessment (EA) or a document stating that existing NEPA documentation is sufficient; documentation of land use plan conformance; and assessment and determination of standards for rangeland health (S&Gs). An in-depth WYOMING NEPA/PLANNING AND REVIEW was occurring at the same time and to minimally disrupt Field Office activities as well as save on travel costs, this TEAM, where possible, merged schedules, data questionnaires, and interviews with the NEPA/PLANNING AND REVIEW Team.

In general, Wyoming BLM is doing a good job issuing permits. Approximately 28 percent of the fiscal year 1999 (FY 99) permits were carried over into fiscal year 2000 (FY 00). The FY 00 permit renewal workload seems to be progressing timely. Workloads are heavy, and the Wyoming State Office has provided written guidance (APPENDIX 4) and hosted annual workshops to assist Field Offices in administering the rangeland management program. The workshops were well received by field employees, and interviewees believe the workshops are very useful and topics discussed pertain directly to current issues. Wyoming BLM developed a grazing permit issuance process in 1998 that has greatly assisted them in the current permit renewal process. Even though the guidance has been issued statewide, it has not been uniformly implemented.

The TEAM believes the level of communication between the State Office and the Field Offices is working well however, not all offices take advantage of this. Even though Field Office employees believe they can get their questions answered quickly and correctly, a high level of consistency in the documents between Field Offices was lacking. The commitment to accomplishing resource improvement on the ground was very impressive. Despite the limited budget and lack of sufficient work force facing all levels of the organization, Wyoming BLM has been able to pursue a strategy of issuing grazing permits that has generally resulted in quality outcomes and reducing the FY 99 backlog such that a very manageable few remain to be issued. Field Office managers were attempting to ensure that the "hard look" required by NEPA was documented before issuing new grazing permits. The exception was the Newcastle Field Office

where sufficient NEPA documentation was lacking. Specific suggestions for improving NEPA compliance are attached.

Not all alternatives are being considered or specifically analyzed; the "no action" alternative is not being analyzed according to instruction, and cumulative impacts are lacking or not being analyzed. Wyoming Instruction Memorandum No. 2000-20, dated January 26, 2000, gives specific guidance to field managers regarding the analysis of a "no grazing" alternative, and in the future, the "no action" alternative should have more in-depth analysis.

Each office is making a concerted effort to determine resource issues and develop the grazing permit terms and conditions reflective of the issues. It was not possible to determine if the new terms and conditions reflected the requirement needed to correct resource issues because so few grazing permits have new terms and conditions that are different than the previous expiring grazing permit. The exception is the Green Mountain Allotment in the Lander Field Office, which issued terms and conditions substantially different than those of the previous grazing permit, with the new terms and conditions attempting to improve known unsatisfactory resource conditions.

Outside publics, including interested publics and affected permittees and lessees, were contacted to determine if they were aware of the grazing permit renewal effort and the extent of their involvement. Nearly everyone contacted thought Wyoming BLM had done more than an adequate job of notifying everyone of the renewal process, arranging of field tours and demonstrations, supplying pertinent information, and responding to requests for documents to review and comment. Most individuals and all agencies contacted had either participated in the renewal effort or acknowledged that they had the opportunity and just did not choose to do so. The agencies were very complimentary on the cooperation in developing checklists, mailing procedures, etc.

Wyoming BLM has the grazing permit issuance process fairly well on track. Eighty-eight FY 99 permits were carried over into FY 00. Field managers assured the TEAM that all field work will be completed for the remaining FY 99 permits, and these carryover permits will be issued by September 30, 2000. For all allotments covered by the expiring FY 00 grazing permits, grazing will be authorized pending completion of the standards for rangeland health assessment and NEPA analysis. Most field managers stressed the point that all expiring FY 00 grazing permits will be reissued with new terms and conditions and issued by September 30, 2000.

Attached are examples of best practices found in this evaluation that may be of assistance elsewhere in BLM (APPENDIX 1); interview questions: internal (APPENDIX 2) and external (APPENDIX 3); Wyoming State Office guidance for grazing permit issuance (APPENDIX 4); and Washington Office's NEPA, grazing permit, and related guidance (APPENDIX 5).

I. Introduction

During the week of January 25-28 and February 22-25, 2000, a Grazing Permit Renewal/NEPA Technical Program Review was conducted in Wyoming. This review is part of a Bureauwide effort to ensure that NEPA compliance is being adequately addressed, and field managers are working effectively to deal with the grazing permit renewal workload to eliminate the backlog associated with the large number of renewals in FY 99 and FY 00. This report includes findings

and 20 recommendations addressing NEPA documentation and the processes used to issue grazing permits.

Grazing permit renewal is a federal action that is subject to conformance with land use plans and compliance with federal laws and regulations for protection of the environment including the NEPA, the National Historic Preservation Act, Endangered Species Act, Federal Land Policy and Management Act, and others. The workload associated with permit renewal was fairly simple 10 years ago. The process is now much more complex and involved due to increased pressures on public lands from significant population growth in the West. In addition, the cumulative effect of land uses, increased attention to protecting endangered or threatened resources, increased public participation, a higher level of legal challenge, fewer staff resources, and greater demand on those staff resources to support equal or major priorities (such as fire suppression emergencies) combine to make permit renewal an involved and challenging job.

In FY 99 and FY 00, the BLM is facing a major workload associated with grazing permit renewal. Grazing permits are normally issued for a 10-year period. Past actions associated with changes in grazing environmental impact statements (EIS) and resource management plans have resulted in a "bulge" in the number of permits to be renewed in these 2 fiscal years. Current Bureauwide estimates are that about 2,048 livestock grazing permits are expiring in FY 00. In the CONFERENCE REPORT that accompanied H.R. 3194, the Congress instructed the:

"Department . . . to develop and implement a schedule to address and alleviate this backlog as soon as possible . . ." ". . . these renewals to be completed in a timely manner so there will no longer be a need to continue to address this problem."

In keeping with Congressional direction, the BLM will be renewing all FY 00 permits and issuing all carryover FY 99 expired permits this FY.

The BLM Director has made a commitment that all permits issued by the BLM will be based on good resource decisions and issued in accordance with applicable law. This TPR was conducted to ensure the BLM is making the best possible use of its resources in dealing with permit renewal, that good ideas developed in one part of the organization are shared with the rest of BLM, and if a BLM Field Office or BLM State Office is off track, then a correction can be made in time to influence the permit renewal effort.

A four¹ member Grazing Permit/NEPA TPR Team ("TEAM") was formed to conduct the review: Buddy Arvizo (WO-220), Mark Hilliard (W0-230), Tom Enright (WY-930), and El Spencer (Public Lands Foundation). John Thompson (MT-930) was the Team Leader on the Wyoming NEPA TPR. Jennifer Rigg (Field Solicitor, Denver, Colorado), accompanied the TEAM at the close-out with the State Director and his staff.

The TEAM visited eight field offices (Rawlins, Rock Springs, Casper, Worland, Kemmerer, Pinedale, Lander, and Buffalo) to conduct interviews. Interviews with personnel of the remaining two offices, Newcastle and Cody, were conducted by phone. Interviews lasted approximately 3 hours. The TEAM met with Field Office managers, rangeland management specialists, and when available, the interdisciplinary team involved with the preparation of EAs and permit renewal. In Casper, one employee was interviewed because Casper Field Office employees were being moved into a new building and were not available for interview. The remaining offices visited and the number of participating employees were Worland 8, Buffalo 6, Lander 11, Rock Springs 13,

Kemmerer 7, Pinedale 5, and Rawlins 8. Two Newcastle Field Office employees and four Cody Field Office employees were interviewed on separate conference calls. The TEAM also met with a number of program leads in the Wyoming State Office. In all, 65 staff and managers were interviewed statewide.

In general, the NEPA TPR Review Team (APPENDIX 6) found that Interdisciplinary analysis and team review were considered appropriate for the scope and issues related to most NEPA documents. The BLM is making a diligent effort to notify the public of environmental documents and to involve the public in the preparation and implementation of NEPA procedures. Although the environmental analysis for most proposals was considered adequate, concerns were noted. The level of NEPA documentation appeared to be appropriate for most proposals, especially for major projects; however, the adequacy of cumulative impact analyses for actions and activities across Wyoming is generally unknown. Existing program guidance, day-to-day direction, and quality control are adequate to address most NEPA and related planning issues and concerns. However, program guidance, day-to-day direction, quality control, and consistency concerning planning/NEPA in some programs could be improved. The adequacy of land use plans also varies among the Field Offices. Based on the findings in this review, fourteen general recommendations were made.

Opportunities to increase efficiency and effectiveness were also noted. Not all alternatives are being considered or specifically analyzed; the "no action" alternative is not being analyzed according to instruction; and cumulative impacts are lacking or not being analyzed. In the future, the "no action" alternative should have more in depth analysis. Wyoming Instruction Memorandum No. 2000-20, dated January 26, 2000, gives specific guidance to field managers regarding the analysis of a "no grazing" alternative. Eighteen outside BLM constituents including interested publics, affected permittees and lessees, Wyoming State Government, and federal agencies were contacted to determine if they were aware of the grazing permit renewal effort and to what extent they were involved.

The TEAM would like to express its appreciation for the assistance provided by Tom Enright during our time in Wyoming. Tom made reservations for the TEAM, set up the interviews, and tried to make sure the TEAM stayed on schedule. His assistance was essential to completing the TPR in a timely and thorough manner. We would also like to thank all of those employees who took time out from their already over committed schedules to speak to the TEAM, especially the Wyoming State Office staff assistants for their excellent procurement of sleeping rooms and related scheduling. The TEAM learned a great deal from the interviews and hopes that they were able to provide some assistance in return.

The TEAM used a predetermined list of key topics to develop interview questions. Similar questions were used at each location. Interviews were conducted in a group setting allowing panel members to be interviewed and to participate in a group discussion when addressing the questions. As part of the review process, all Field Offices supplied three examples each of NEPA analysis, documentation of land use conformance, and proposed or issued grazing permits, including twenty-nine EAs and one administrative determination (AD). No Documentation of NEPA Adequacy (DNA) was supplied.

II. Findings

1. Issue Identification

INTERNAL BLM PUBLICS:

All field managers used the established practice in Wyoming of sending a letter at the beginning of the year, where appropriate, to interested publics, affected individuals, commodity and special interest groups, other federal agencies, state and local governments, and Tribal governments to solicit their input and request data to assist BLM in the permit renewal analysis, evaluations, and rangeland standards determinations. All offices, except Buffalo and Kemmerer, have a web page available for posting the EA and other information. Many Field Offices have supplemented information by conducting field reviews on allotments with expiring permits where an allotment analysis has not been completed.

Interviewees identified issues using, for the most part, allotment categorization (MIC). They also gathered information from several other sources including land use plans (resource management plans/management framework plans), EISs, allotment management plans, and outside publics. Also, all field managers set up priority for permit renewal reviews based on IM 99-023, *Permit or Lease Renewal Process and Promoting Land Health*; IM 99-039, *Issuance of Grazing Permits in Compliance with Applicable Laws, Regulations, and Policy*; IM 98-91, *Healthy Rangeland Initiative: Implementation of Standards and Guidelines*; and the Wyoming State Director's implementation plan: *Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for Public Lands Administered by the Bureau of Land Management for in the State of Wyoming*, signed January 1998. Ever since IM 99-149, *Documentation of Land Use Plan Conformance and National Environmental Policy Act (NEPA) Adequacy*, was issued on July 6, 1999, field managers have only used the EAs as the NEPA analysis document.

Interviewees stated that existing LIPS or Grazing EISs did not contain adequate site-specific analysis, therefore, Wyoming BLM has supplemented these documents with an EA.

Approximately 98 percent of all permits in Wyoming have been evaluated using EAs. The TEAM reviewed only one administrative determination, and no EISs were prepared.

EXTERNAL BLM PUBLICS:

BLM Constituent Interviews:

El Spencer, a former BLM employee, volunteered to assist in the review effort by contacting individuals outside of BLM to see if they were aware of the permit renewal effort and if they had participated in the process. In addition, they were asked about their understanding of the Wyoming standards for rangeland health assessment and determination process. Fifty-one names to contact were provided to Mr. Spencer. These individuals represented permittees, state and federal agencies, and interested publics. Twenty-eight individuals were contacted. Their responses can be summarized by category:

Permittees: At least one ranch representative from each Field Office was contacted (ten field offices). Twelve permittees were interviewed.

Many of the ranchers', with Section 15 leases, first reaction to the question of notification and participation was "that they had very little of either." After further discussion, it came out that the opportunity to participate was present, and several had gone on field trips, observed work going

on, met with the BLM's Range Management Specialists, etc. Steve Hannan was specifically mentioned as great to work with.

As expected, Mr Spencer found those permittees with grazing permits in Section 3 areas were much better prepared to answer his questions, more heavily involved in the process, and overall, more concerned with doing the job right (both permit renewal and long-term management) than those lessees in the Section 15 areas. There were three major areas of concern: (1) having too much involvement with wildlife and allowing that to unduly influence management decisions, (2) too much emphasis on T&E species, and (3) riparian areas were overly protected.

Other areas of concern were: (1) implementation of the Wyoming S&Gs; however, of particular concern is the assessment and analysis of data, together with actions that are taken resulting from the assessment and (2) inconsistencies in the issuance of grazing permits and S&G assessment between Field Offices within Wyoming are particularly alarming. As stated previously, individual interpretation and assignment of conditions are felt to be quite variable between individuals within the Field Office and between the different Field Offices.

State Agencies: Agencies contacted were all very aware of the process and were heavily involved across the state. There was close coordination between BLM, Wyoming Game and Fish Department, and the State Clearing House. Tom Enright and Dave Roberts were specifically mentioned as key people as work progressed in developing a listing of allotments of interest, standard recommendations to use, and routing procedures, etc. By and large, the Wyoming Game and Fish Department and the Wyoming State Clearing House are satisfied with the process. Interviewees from both agencies said that the various BLM Field Offices responded differently, but differences have been largely resolved. Rawlins Field Office was mentioned as one Field Office that improved its coordination.

The Department of Agriculture and the State Grazing Board, while having different agendas, were fairly close on their responses. They felt that BLM had done more than an adequate job in the announcements, news releases, etc., to publicize the action and invite participation. They felt it was somewhat slanted toward the general public and that more personal attention should have been extended to the users (permittees). The Department of Agriculture and BLM coordinated on a letter to users to partially remedy their perceived problem. While they had some concerns, they received few calls from users with problems.

Both organizations felt the BLM did a good job in giving a "heads up" warning to those operators facing major changes to their grazing practices. They recognized that the program suffered some start, stop, and do over growing pains, "but is going better now." They felt more guidance could have been given early on to avoid those problems. Some concern was expressed on which allotments were selected for assessment of standards for rangeland health and AMP development. They believe that allotments other than those rated "I" are being worked on, and this may dilute efforts on those really needing attention.

They have concerns that the process may receive legal challenges, but if so, they think it will be in carefully selected situations involving critical resources. They suggested that the BLM consider a series of meetings "to pass on lessons learned" information.

Federal Agencies: The U.S. Fish and Wildlife Service was very aware of the process before the workload became overbearing. The Wyoming BLM State Office employees contacted them with concerns on the workload and a need to streamline the approach to Section 7 consultation and compliance. The procedures that were jointly developed went through growing pains but U.S. Fish and Wildlife Service believes their and BLM procedures are working well and have greatly simplified the process.

Also, the U.S. Fish and Wildlife Service feels that Wyoming BLM is dealing with the process as good as they can, and they question the need to devote the effort needed to work on those "stupid little tracts" in the northeast part of the state. At first "there was some resistance from the BLM Field Offices, but it's OK now." Casper Field Office was the best to work with. This may reflect the fact that the U.S. Fish and Wildlife Service interviewee was assigned to cover that part of the state.

Interested Publics: Again, as expected, the interviewees were very concerned about the BLM's management of the public lands in Wyoming. One of the interviewees identified as an interested public received copies of applications for renewal on more than one allotment. He mentioned that it "it's a mixed bag of success and failures" when asked about getting copies of other lists, EAs, notices of field trips, meetings on S&Gs, etc. While he thinks all the EAs are inadequate, he "will not fight them."

One interviewee believes the BLM should "update the old land use plans and cover everything in that one document." They would then cover entire allotments once and not have to issue individual EAs when permits expire." The EA would be done on the AMP.

An interviewee was also concerned that Wyoming S&Gs are not being developed on a schedule, and that "easy" allotments and users are being done to build statistics. Recognizing that his ideas probably will not be implemented, he said "stay with what they got, but do it right."

There are several conservation groups present in Wyoming. Although present and active in local areas, they are not active on a statewide basis. The more active groups include The Nature Conservancy, National Wildlife Federation, Idaho Watersheds Projects, Wyoming Outdoor Council, and Wyoming Wildlife Federation.

Based on these contacts, Mr. Spencer concluded that BLM in Wyoming has improved its communication with external interests and they believe "the BLM is doing a good job getting permits renewed." All of the groups expressed a common concern that BLM needs more people "on-the-ground." Over all, the permit renewal effort has not generated significant interest.

One other source of information about public contacts is contained in the "Other Persons/Agencies Consulted" section of EAs. Several EAs listed only other BLM personnel and permittees in this section, in some cases describing the other persons only as "other resource specialists" in the particular Field Office, rather than by name. For those EAs, most of which were the short-form variety, it was not possible to determine whether attempts were even made to contact anybody outside of BLM other than the permittees. In some cases, no such attempts were made. In others, the Field Offices had clearly contacted the U.S. Fish and Wildlife Service and the Wyoming Game and Fish Department to review wildlife concerns, but the contacts were not documented. One field manager expressed concern that a high level of public involvement would impede progress.

Consultation with the U.S. Fish and Wildlife Service

All Wyoming Field Offices met or otherwise communicated with U. S. Fish and Wildlife Service personnel regarding grazing permit renewal and potential impacts to listed, proposed, and candidate-threatened and endangered species. There is a good working relationship between the BLM and U.S. Fish and Wildlife Service. Generally, the contacts were made well in advance of, or very early in, the grazing permit renewal process, and there are no specific unresolved issues with respect to T&E species. Field Offices generally contacted the U.S. Fish and Wildlife Service near the start of the FY to determine any U.S. Fish and Wildlife Service T&E species concerns. These contact were made regarding allotments subject to grazing permit renewal and other activities planned for the FY. However, documentation of the contacts in the EAs varies widely, ranging from narrative discussions of the contacts and outcomes, including copies of correspondence in the EA appendices, to no reference whatsoever that any contact took place. Several of the EAs reviewed by the TEAM did not list the U.S. Fish and Wildlife Service as one of the “Other Persons/Agencies Consulted.”

In one instance, U.S. Fish and Wildlife Service concurrence was absent from a grazing permit renewal EA and was characterized as “a fluke.” The explanation given is that the allotment in question, Jack Creek, is within the Cody Field Office, but the grazing permit is issued by the Worland Field Office. The assumption made at the time the permit was issued was that the Cody Field Office had made the appropriate consultation with U. S. Fish and Wildlife Service. Given the high degree of communication between BLM Field Offices and the U.S. Fish and Wildlife Service, the TEAM concurs that the omission was an anomaly that is unlikely to be repeated.

Special Status Species Other than ESA Listed, Proposed, or Candidate Species

Most, but not all, Field Offices also addressed special status species in their EAs other than listed, proposed, or candidate T&E species, with analysis appropriate to the respective grazing permit renewal under consideration. The two most prominent such species in Wyoming are the black-tailed prairie dog and Northern sage grouse. In its January 13, 1999, response letter to the BLM Wyoming State Office regarding Section 7 consultation on BLM grazing permit renewal in Wyoming, the U.S. Fish and Wildlife Service specifically encouraged BLM’s “consideration of conservation of black-tailed prairie dogs and sage grouse.” A copy of the letter is appended to Information Bulletin No. WY-99-39, dated February 26, 1999 (Attachment 1).

Given this information, it was surprising that two EAs within the Buffalo Field Office, which does not allow black-tailed prairie dog control in conjunction with livestock grazing, did not address livestock grazing impacts to the black-tailed prairie dog, even though the allotments contain black-tailed prairie dog and permittees had asked permission to control them. There are several plausible explanations, including:

1. BLM Wyoming does not yet have a State Director-designated sensitive species list. Personnel in several Field Offices cited the absence of such a list as a factor for such species not being addressed in EAs. As a result, species which might otherwise warrant special consideration have no elevated status in the analysis and decision process. The designation of a state BLM sensitive species list, which is now in process, should resolve this concern.
2. Heavy reliance on the use of short-form EAs for relatively small allotments or permit issuance when relatively few AUMs are involved, particularly when the number of permits to be processed may be high and may convey the impression that only the “most critical” issues need to be addressed, i.e., those issues which are specifically identified on the “critical element” checklists.

However, there is also variation across Field Offices in the length and analysis contained in short form EAs. Many short-form EAs are highly skeletal, which does not inherently make them insufficient, but that may preclude addressing some potentially important considerations.

3. Related to the foregoing, expediting renewal by using short-form EAs may not provide sufficient analysis of the actual situation or may overlook an otherwise important consideration, especially if no field visits are conducted in conjunction with the grazing permit renewal. The team learned that short-form EAs for grazing permit renewal are most often prepared by range conservationists and subsequently reviewed by other natural resource specialists.

4. Black-tailed prairie dogs are not a fully protected species, and recreational shooting of the black-tailed prairie dog is still practiced in some areas. Thus, the significance of the need for their conservation may not be apparent or well known.

On February 4, 2000, the U.S. Fish and Wildlife Service determined that listing of the black-tailed prairie dog as threatened throughout the species' range was warranted but precluded, thus elevating it to candidate-species status.

Also, the U.S. Fish and Wildlife Service will likely be petitioned later this year to list the Northern Sage Grouse as threatened throughout its range.

Consultation/Coordination with the Wyoming Game and Fish Department

Many EAs the TEAM reviewed were sent only to the Wyoming Clearing House for subsequent distribution to the Wyoming Game and Fish Department, with no additional copies sent directly to Wyoming Game and Fish Department offices or representatives. Though the Wyoming Game and Fish Department initially had a fairly high level of interest in grazing permit renewal, department representatives subsequently expressed that unless there were special habitats or circumstances concerned with the renewal of particular grazing permits, they did not need to be involved in routine issuance of the permits. BLM Field Offices throughout Wyoming generally described the working relationship with Wyoming Game and Fish Department as quite positive.

2. Interdisciplinary Process

All Field Offices are using various renditions of an interdisciplinary approach (ID). Most have formed ID teams. They do not meet regularly to discuss upcoming work, propose solutions to allotment problems, or review work in progress. In most offices, temporary ID teams are created in relation to the issue at hand. Rock Springs and Lander Field Offices had the closest to a standing ID team.

Several offices were expanding their ID teams to include specialists that were not directly involved in the permit renewal/NEPA issue. Not all of the offices have a full-time NEPA coordinator, but when available, they were member of the ID team. None of the Field Offices believed they could operate without NEPA expertise. All interviewees believed they benefitted from an ID team involvement, and the products produced were better as a result.

3. Desired Resource Conditions

Wyoming has concentrated completing the grazing permit renewal backlog and has elected to delay the assessment with the Wyoming standards for rangeland health. Therefore, unless the expiring permit and associated allotment(s) have significant resource issues or conditions

(Endangered Species Act issues, etc.), EAs are first being completed for permits with less significant resource conditions and known issues.

Field managers and staff have uncertainty about the requirements of the interim DNA worksheet and, therefore, have not used it to any extent. They also believe a lack of current or adequate data makes EAs the appropriate NEPA vehicle. Most field managers, at one time or another, have used the Wyoming BLM approved "Optional Environmental Assessment, Short Form." If used incorrectly, the short-form EA fails to provide the basic requirements found in existing policy. It appears that the Newcastle Field Office is the only Field Office still using the form, and it is being used incorrectly.

In most examples, these EAs for permit renewal have LUP and NEPA documents that are 12 to 18 years old. Exceptions are the Rock Springs and the Worland Field Offices where the LUPS were finalized in 1997 and 1998, respectively. The TEAM is concerned about the age of these documents related to perceptions of the adequacy of issuing grazing permit renewal with the "short form." In most or all cases, new issues have emerged (e.g., noxious weeds, water quality, and new species listings under ESA) that may not have been adequately addressed in these NEPA documents.

Most of the newer, post July 1999 format, EAs were completed with good explanations and detailed information. Examples of EAs with particularly well documented resource conditions and proposed corrective terms and conditions came from the Lander, Rock Springs, Cody, and Rawlins Field Offices. These EAs represent a tremendous improvement over the Administrative Determinations and the "short form" which were the standard analysis documents.

4. NEPA Issues

Range of Alternatives

In many cases, the only alternative recognized and analyzed was the proposed action. When other alternatives were recognized, however, often they were not analyzed further and dismissed. Examples were found in the Newcastle, Buffalo, and Worland Field Offices. The EAs can be strengthened by including the No Action alternative (no grazing) and other grazing alternatives (for example, where the proposed action is to issue a new permit with modifications, the EA should also analyze the alternative of issuing a permit with no change in terms and conditions). Recent Wyoming State Office guidance on NEPA analysis of permit renewal should lead Field Offices to develop a reasonable range of alternatives.

Cumulative Effects Determination

In all examples reviewed, EAs would be strengthened by additional analysis of cumulative effects. It may often be appropriate to incorporate by reference the general analysis in an existing EIS or an allotment evaluation.

Hard Look, Consistency, and Categorical Exclusions

For the most part, EAs that have been completed since December 1999 have the documentation denoting a "hard look" occurred during the renewal process. In the older environmental analysis document, the "hard look" review requirement was marginal or unmet.

Even though the guidance for preparing NEPA documents was the same, there is variation in the consistency of NEPA documents. For example, one complex EA in the Lander Field Office was well documented and is over 170 pages while in the Newcastle Field Office, its EA consisted of no more than a check list.

5. Terms and Conditions

The Field Office managers state that the grazing decisions will contain terms and conditions for the permits that fully comply with the LUPs, the regulations, and the FONSI. Each office is making a concerted effort to determine resource issues and develop the grazing permits' terms and conditions reflective of the issues. It was not possible to determine if the terms and conditions reflected the requirement needed to correct resource issues because so few new grazing permits had terms and conditions different than the previous expiring grazing permit. The exception, Green Mountain Allotment in the Lander Field Office, had terms and conditions different than those of the previous grazing permit. The terms and conditions of the new Green Mountain grazing permit, to a certain degree, reflect attempts to improve known resource conditions.

6. Standards and Fundamentals of Rangeland Health

Not all field managers are assessing allotments for compliance with the *Wyoming Standards for Rangeland Health and Guidelines for Livestock Grazing* with each permit/lease renewal or ensuring that the grazing permit complies with *43 CFR 4180.1, Fundamentals of Rangeland Health*. Most permits do not reflect the intent of *43 CFR 4180.1*. In fact, the interviews revealed that it was not universally understood that regardless of an allotment assessment for standards conformance, renewal of the permit must still comply with the fundamentals for healthy rangelands (*43CFR 4180.1*). There is very little mention of reviewing for conformance with the fundamentals of rangeland health in either the EA or the terms and conditions of the permit. In addition, field managers, because of the high priority permit renewal work, have elected to postpone the assessment of the Wyoming standards for rangeland health (*43 CFR 4180.2*). They are in conformance with policy, adding to grazing permits the statement advising permittees and other interested publics that an assessment will be forthcoming and, if necessary to correct resource problems, changes to the permit will occur. In addition, field managers are not consistently determining if the permit, as issued, will comply with the fundamentals of rangeland health (*43 CFR 4180.1*) and IM-WO-98-91, *Implementation of Standards of Rangeland Health*. Field managers, in determining whether the terms and conditions are appropriate actions for the resource issues, are using long-term monitoring data and inventory or monitoring data from other resource activity (wildlife, riparian, and water). Field Offices have not used, to any extent, the qualitative analysis procedure for allotment evaluations. They are making observations and using professional judgements to fill in the gaps where data are lacking. In all Field Offices, strong support was not expressed for the standards for rangeland health assessment process.

7. Monitoring

Bureauwide, whenever funding and work months are reduced or priorities shift, monitoring always is reduced to the "bare essentials." The Wyoming rangeland program has not escaped this dilemma. In all Field Offices, other priority workloads, including permit renewal, limit the amount of monitoring that can be accomplished in a given year. This is true for both long-term and short-term analysis including ecological site inventory. All Field Offices were conducting some level of monitoring, but none felt they were getting ahead of the minimum required to complete evaluations for upcoming permit renewal efforts in FY 01 and beyond.

Not all Field Offices have a current interdisciplinary monitoring plan. The Pinedale Field Office and to a lesser degree the Lander Field Office seem to have the most up-to-date and implemented interdisciplinary monitoring plan. Generally, the monitoring that is being accomplished is "range driven." Interviewees admitted that monitoring plans developed years ago are in need of updating.

Only the Lander and the Rock Springs Field Offices mentioned that they are just beginning to tie required monitoring to the Wyoming standards for rangeland health and the indicators associated with these standards. Statewide, this exercise of tying the indicators to a monitoring strategy is in an embryonic stage. All Field Offices seem to be far from having a working monitoring model for fundamentals of rangeland health.

8. Implementation

A key part to implementing the rangeland health initiative is to develop interim management that will ensure resource impacts are minimal and begin recovery during the period between the decision and the time the rangeland projects are actually constructed or long term management is implemented. Examples of interim management include reducing numbers, changes in seasons of use, or changes in grazing pasture rotations. One example of interim management was outlined in the Green Mountain Common Allotment Plan prepared by the Lander Field Office. The field officer elected to require the permittees to herd their livestock away from the riparian areas during critical growth periods. Although this practice has had mixed reviews, only time will tell if this is an appropriate action to correct the over grazing of the riparian areas.

9. Permit Renewal Schedule

In Wyoming, the grazing permit process is fairly well on track. Eighty-eight FY 99 permits have been carried over into FY 00. Of the permits currently being carried over, those not having all of the required NEPA complete before the scheduled turnout date will be continued under the same terms and conditions provided for by the authority of Administrative Procedures Act (APA) 5 U.S.C. 558(c). Ultimately, all carryover permits are expected to have the required NEPA documentation completed by September 30, 2000, for issuance of a new grazing permit. All FY 00 permits will be renewed and schedules made to complete the required NEPA documentation and healthy rangelands assessments for standards conformance.

10. Cooperative Efforts and New Ideas

The Wyoming State Office should be commended for brokering the agreement with the Wyoming State Clearing House to coordinate the review of grazing permits by all impacted state agencies. All interviewees noted this process was now working extremely well.

11. Prohibited Actions

No one has been disqualified for cause, although the Cody Field Manager did review a case where a permittee was chastised by the Wyoming Game and Fish Department for killing elk. All field managers are aware of the regulations and will exercise the regulation and refuse renewal of a permit or to issue a permit to the permittees with poor records of compliance.

12. Other Findings

All Field Offices reported that information dissemination from the Wyoming State Office is good, and they are getting the information timely. Only one individual mentioned he was not getting the information. This may be a case where he was inadvertently left off the internal Field Office list.

When guidance is needed, the Washington Office and/or Wyoming State Office Instruction Memorandums and Information Bulletins need to be developed and issued quickly. The Washington Office needs to disseminate good ideas from other states. Interviewees suggest Washington Office and Wyoming State Office transmit timely and use lead copy to speed up information exchange. Conducting in-state seminars or workshops were reported to be very helpful. Interviewees suggested that repeated requests for data calls be kept to a minimum, and that these requests be screened at the Wyoming State Office.

III. Recommendations

General

The TEAM recommends that:

- additional resources be targeted for increased data collection and monitoring. Most offices mentioned that they would target additional funds for seasonal hires.
- field managers and staff maintain an effort toward a high level of participation by all rangelands interests groups, individuals, governmental agencies, and Tribal governments to enhance input for BLM consideration in the permit renewal process.
- field managers consider using the field office program leads or principal staff as the “core” for the standing interdisciplinary team. Depending upon the specifics of a given issue, be it permit renewal or any NEPA related work etc., this “core ID team” would be involved in the work. If needed, a specific ID team could be appointed to deal with a specific issue.
- the State Director continue to provide sound guidance and training, which if followed in the permit renewal reviews, will lead to good analysis and consideration of the rangeland environment. Continue the good effort.

NEPA Processes

The TEAM recommends that:

- field managers (for most EAs prepared for permit renewal, as a minimum) consider a range of alternatives that include: (1) the no action alternative (i.e., not issuing the permit or no grazing), (2) grazing consistent with the previous permit, and (3) one or more grazing alternatives (e.g., an alternative based on the technical recommendations in an allotment evaluation).
- the Optional EA Short Form should not be used. However, for the Optional EA Short Form to be minimally acceptable for grazing permit NEPA analysis, field managers, if not considering or analyzing other alternatives, must modify the form to include rationale explaining why.
- Clearly, appropriate communications regarding T&E species are being made. Therefore, better documentation of the contacts is recommended, even if only to reference in that section of EAs that the U.S. Fish and Wildlife Service was involved.
- EAs prepared for permit renewal provide additional analysis of cumulative effects, and that the EA provide additional explanation of how the cumulative effects analysis in the existing NEPA analysis is adequate. As a first step, for each EA, identify other management actions that have occurred, or are likely to occur, in and near the project area that could have a cumulative effect with the proposed action. Helpful guidance on cumulative effect analysis can be found in the following documents:

WO IB 94-310 “Guidelines for Analyzing and Documenting Cumulative Impacts”
(April 12, 1994)

Considering Cumulative Effects under the National Environmental Policy Act
(CEQ 1997) (<http://ceq.eh.doe.gov/nepa/ccenepa/ccenepa.htm>)

Consideration of Cumulative Impacts in EPA Review of NEPA Documents (EPA 1999)
(<http://es.epa.gov/oeca/ofa/cumula.html>)

- the decision should clearly cite the pertinent page and section or paragraph to affirm consistency with LUPs, regulations, and mitigating measures in the FONSI. The person responsible for final review of the issuing documents should be someone other than the principle author.
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Standards and Guidelines

The TEAM recommends:

- field managers review work to incorporate assessment of the Wyoming standards for rangeland health into the permit renewal effort and develop a schedule to continue to assess high resource issue allotments for conformance with the Wyoming Standards for Rangeland Health.
- the standards for rangeland health “determination document” must be signed by the authorized official. Remember, the determination of standards conformance with rangeland health is not a decision and not appealable. Therefore, if incorporating the “rangeland health determination” into the decision as rationale for the decision, ensure that it is properly documented or referenced and made very clear that this information serves the purpose of supporting the decision and ~~it~~ is not a the decision itself. The preferred method is to prepare the rangeland health documentation separate from the “decision.” Each document serves a different purpose and needs to stand on its own.
- a team made up of Field and Wyoming State Office staffs determines the monitoring techniques used to evaluate the indicators associated with the Wyoming standards and fundamentals of rangeland health.
- the WO-200 Groups and NARSC staff assist the Field and Wyoming State Office staffs in the development of methodologies for measuring and interpreting biotic fundamentals for rangeland health.

Permit and Lease Terms and Conditions

The TEAM recommends:

- field managers ensure that terms and conditions reflect the resource issues and where required, implement an interim management program and take appropriate action to correct the resource issues identified.

Monitoring

The TEAM recommends:

- field managers upgrade their monitoring plan to incorporate the indicators found in the *Wyoming Standards for Rangeland Health and Guidelines for Livestock Grazing*. Incorporating these indicators will ensure proper monitoring techniques are used to determine if standards are being met or significant progress is being made to meet the standards.

Implementation Considerations

The TEAM recommends:

- the Field Office managers continue to seek a broad involvement of the rangeland interests in the future as they implement rangeland management actions (refer to NEPA above).

Cost Savings Initiatives

The TEAM recommends:

- continue seeking innovative ways to develop partnerships for implementing the BLM's healthy rangeland initiative.

Prohibited Acts

The TEAM recommends:

- the WO-220 and NARSC staffs develop a national data base of individuals convicted of prohibited acts on National Forest Systems Lands as well as public lands.

Assistance Needs

The TEAM recommends:

- the WO-210 staff provide examples of good cumulative impact analysis and no action (no grazing) analysis.
- the WO-200 and Wyoming State Office staffs develop guidance and information as needed and transmit it timely to Field Office managers.
- Wyoming State Office continue to offer annual and semi-annual Field Office workshops (seminars).

APPENDIX 1: BEST PRACTICES

The following are techniques, processes, or other ideas that the TEAM believes would benefit other States in the permit renewal process.

The Statewide meetings arranged by the Wyoming State Office were appreciated by all Field Offices. In addition, the support and guidance provided by State Office resource leads on an on-going basis have led to a high degree of confidence between offices in Wyoming.

Use of the Wyoming State Clearing House to keep state government and other publics informed of permit renewal work, including things like allotments to be evaluated, opportunities for input into the process, and schedule for completing permits.

APPENDIX 2: FIELD LEVEL PERFORMANCE MEASURE/TASKS REVIEWED

(Please note that although presented as questions below, the exact phrasing and order varied in each interview based upon the development of the interview with each team.)

1. NEPA Process

Were issues (problems, concerns, conflicts, etc.) identified? For instance, T&E species or habitat, Water Quality, invasive species, Riparian/Wetlands, Big Game and other native plant and animal habitat, ACEC's, Wilderness, Wild and Scenic Rivers, Recreation use, etc. (40CFR 1501.2 & 1501.7; 43 CFR 4100.08; 1601.05(b)) ?

Were external interests (affected permittees and lessees, interested publics, other federal and state agencies, Indian Tribes, etc.) invited and involved in the CCC process (40 CFR 1506.6; 43CFR 4110.3-3; 4130.3-3(a); 4130.2(a) & 4130.2(b))?

Does the existing LUP and NEPA documentation contain site specific analysis (4CFR 1501.2(b) & 1508.9(b))?

Was an effective interdisciplinary approach used (40CFR 1501.2)?

Did the ID approach identify solutions that would meet standards and achieve goals and objectives, improve resource conditions, and assure conformance with 40CFR 4130.3 and 4180 (40CFR 1501.2(a))?

Was an adequate range of alternatives considered and analyzed (40CFR 1501.2(b))?

Were cumulative impacts addressed (40CFR 1508.7)?

Were desired resource conditions/management objectives clearly identified (40CFR 1501.2; 43CFR 4100.0-8)?

Does the grazing decision comply with the LUP and 43 CFR 4100 grazing administration regulations (43CFR 4100.0-8; 43 CFR 4160; 40CFR 1501.2)?

2. Standards for Rangeland Health Assessment

Is the proposed grazing management described in the permit/lease consistent with fundamentals of rangeland health and standards and guidelines for grazing administration (43CFR 4180; IM - 98- 91)?

Are appropriate information and data being used to assess or determine if the standards are being met (or significant improvement is occurring) (43CFR 4180 & IM-98-91)?

3. Permit/Lease Terms and Conditions

Are the permit/lease terms and conditions consistent with FONSI, fundamentals of rangeland health, and standards and guidelines for grazing administration (43CFR 4180, 4130.3; 40CFR 1501.4)?

Are the terms and conditions designed to resolve the issues identified and improve resource conditions (43CFR 4110.3; 4130.3, & 4180.2(c))?

4. Monitoring

Is an interdisciplinary monitoring strategy in place that is specifically tied to resource conditions and objectives (43CFR 4180 & IM-98-91)?

Does the monitoring plan identify who, what, where, and when data are to be collected (43CFR 4120.2; 4130-1; & IM-98-91)?

5. Implementation Considerations

Is there a process in place to prioritize the implementation of management actions (terms and conditions) of the permit or lease (43CFR 4130.3; IM-98-91; IM-99-23; & IM-99-39)?

Were interested public and affected parties notified of permit/lease renewal including terms and conditions (43CFR 4130.2 & .3)?

Is there a process in place that allows external parties the opportunity to participate in implementing future management (43CFR 4110.3-3((a); 4130.2(b); 4130.3-3; & 4120.2(a); 40CFR 1506.6)?

Is the permit/lease renewal process on schedule (IM-99-23 & IM-99-39)?

If you were given additional funds where and how would you spend the additional money (IM-99-23 & IM-99-39)?

6. Cost Savings Initiatives

Were partnerships (organizations, other federal and state agencies) developed for cost savings (IM-99-23 & IM-99-39)?

What other practices were employed to cut costs, reduce redundancy, and improve efficiency (IM-99-23 & IM-99-39)?

Was a cost reimbursable effort considered (IM-99-23 & IM-99-39)?

7. Prohibited Acts

Was there a review of the application to ensure there is no violation of prohibited acts (43CFR 4140)?

8. Assistance Needs

What additional assistance is needed from the State or Washington Office to assist in permit renewal process?

What is the most effective way for State/Washington Office to transmit information on permit renewal?

APPENDIX 3: EXTERNAL PUBLIC QUESTIONNAIRE

1. Are you aware of the permit/lease renewal process and how did you learn about it?
2. Have you participated in the process? How or why not?
3. What part of the process do you think will be most important to management of your allotment or lease?
4. What is your opinion of how BLM dealt with, or is dealing with, the process?
5. What would you change?
6. Any other thoughts on the process?

APPENDIX 4: WYOMING STATE DIRECTOR'S GUIDANCE

State Director's Policy: Wyoming Implementation Plan: *Implementation Plan Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for Public Lands Administered by the Bureau of Land Management for in the State of Wyoming* –January 1998.

Instruction Memorandum No. 98-61, Guidance for Water Quality Assessment and Monitoring for the Implementation of Standard Number 5 of the Wyoming Standards for Healthy Rangelands and Guidelines for Livestock Grazing, June 26, 1998.

Instruction Memorandum No. 99-20, Complying with Section 106 in Conformance with WO IM No. 99-039, February 1, 1999.

Instruction Memorandum No. 99-28, Rangeland Management, Qualitative Assessment of Standards and Guidelines, March 18, 1999.

Instruction Memorandum No. 99-32, Water Resource Program Review and Coordination with Wyoming Department of Environmental Quality, April 7, 1999.

Instruction Memorandum No. 99-34, Standards and Guidelines Consistency Meeting, April 13, 1999.

Instruction Memorandum No. 99-41, State Clearinghouse Procedures, May 20, 1999.

Instruction Memorandum No. 00-20, Compliance with the National Environmental Policy Act - Addressing Alternatives for Livestock Grazing Permits Renewals, Washington Office Instruction Memorandum No. 2000-022, November 5, 1999, January 26, 2000.

APPENDIX 5: BUREAU GUIDANCE and INSTRUCTION MEMORANDUM

Instruction Memorandum No. 95-167, *Implementation of the Grazing Rule*

Instruction Memorandum No. 96-151, *Standards and Guidelines Development*

Instruction Memorandum No. 96-172, *Standards and Guidelines Implementation*

Instruction Memorandum No. 98-091, *Healthy Rangeland Initiative: Implementation of Standards and Guidelines*

Instruction Memorandum No. 99-023, *Permit or Lease Renewal Process and Promoting Land Health*

Instruction Memorandum No. 99-039, *Permit or Lease Process and Promoting Land Health*

Instruction Memorandum No. 99-149, *Documentation of Land Use Plan Conformance and National Environmental Policy Act (NEPA) Adequacy*

Instruction Memorandum No. 99-194, *Permittee Requests For Information on Grazing Renewal*

Instruction Memorandum No. 00-022, *Compliance with the National Environmental Policy Act (NEPA) -- Addressing Alternatives for Livestock Grazing Permit Renewals*

Instruction Memorandum No. 00-098, *Grazing Permit/Lease Renewal and Rangeland Health Standards Assessment Technical Program Review (TPR) DD: 04/30/2000*

Instruction Memorandum No. 00-022, Change 1, *Compliance with the National Environmental Policy Act (NEPA) --Addressing Alternatives for Livestock Grazing Permit Renewals*

Instruction Memorandum No. 00-153, *Standards Assessment Procedures and Guidance*

APPENDIX 6: SUMMARY OF WYOMING NEPA/PLANNING REVIEW FINDINGS
(see separate attachment)

¹ An in-depth NEPA Technical Program Review was occurring in Wyoming at the same time and to disrupt field office staffs as minimally as possibly and save on travel costs, this TEAM merged schedules, data questionnaires and interviews with the Wyoming NEPA/PLANNING and REVIEW Team. John Thompson (MT-930) was the team leader.